

## **Proposed Procedure Revisions (July 2014)**

**1) *Contract Appointments***

Section 3.3 –Employment and Separation Procedures Manual  
Procedure and Form 3.3a

**2) *Leave of Absence***

Section 4.6 –Employment and Separation Procedures Manual

**3) *Demotion***

Section 4.9 –Employment and Separation Procedures Manual  
Procedure and Form 4.9a

**4) *Suspension Pending Discharge***

Section 5.3 –Employment and Separation Procedures Manual  
Procedure and Form 5.3a, 5.3b

**5) *Initiation of Discharge Action***

Section 5.4 –Employment and Separation Procedures Manual  
Procedure and Example 5.4a

**6) *Discharge Hearing***

Section 5.5 –Employment and Separation Procedures Manual

**7) *Disability Accommodations for Testing***

Section 5.17(new) –Examination Procedures Manual  
Procedure and Form 5.17a

Section 3 – Status Appointments

*(Reference 80 Ill. Adm. Code §250.80(b))*

**3.3 CONTRACT APPOINTMENTS**

Contract Appointments are considered Status Civil Service Appointments. Contract Appointments are positions assigned. They involve work and performed at a location carried out by the institutions but away from their primary premises or immediate environs of the employer. Official class titles shall be used for Contract Appointments.

The Executive Director, with advice from the DER and the employing department, shall determine that a position is a Contract Appointment. The DER shall submit a formal request for consideration and approval of each position to be a Contract Appointment. See Form 3.3a, Request to Establish Contract Appointment. Once a position has been approved as a Contract Appointment, the employer is allowed to employ others in duplicate positions without prior approval. The University System office shall be notified of all candidates assigned to approved Contract Appointment.

Official class titles shall be used for Contract Appointments.

The DER shall maintain a written record of examination which shall show an evaluation of the applicant's qualifications based on a review of the application form and results of an interview between the applicant and an appropriate member of the DER's staff. No examination papers written by candidates for positions approved as Contract Appointments shall be sent to the University System office.

Two register cards shall be prepared for candidates for Contract Appointments. One card, with score assigned, shall be sent to the System. Use regular original entry register cards, and type CONTRACT APPOINTMENT at the top.

All incumbents with Contract Appointments shall receive notices of employment, with position control numbers assigned. Such notices must be clearly marked: **CONTRACT APPOINTMENT.** The System shall be notified at the time of the appointment.

Incumbents in Contract Appointments are not eligible for transfer to other positions (except other Contract Appointments in the same class at the same location) and are not eligible for promotional examinations.

Rates of pay for employees under Contract Appointments shall be reported to the University System office.

Section 3 – Status Appointments

*(Reference 80 Ill. Adm. Code §250.80(b))*

Employees under Contract Appointments serve a probationary period and are subject to the Rules and proceedings related to separation as Status employees. See Sections [6.1, Probationary Period and 6.2, —Service and Seniority](#) [Accrual of the Employment and Separation Procedures Manual](#).

~~Probationary Periods (See Section 6 – Service and Seniority).~~

# Request to Establish Contract Appointment

**Definition:** Section 250.80(b) of the Illinois Administrative Code (80 Ill. Adm. Code §250.80(b)) defines Contract Appointments as positions covered by a contract between an employer served by the University System and the State of Illinois, or other agency, where work is required to be performed at locations away from the premises of the employing College or University or its immediate environs. See Section 3.3 of the Employment and Separation Procedures Manual, Contract Appointments.

*Please provide the following information (please print or type):*

Classification \_\_\_\_\_

Program Name \_\_\_\_\_

Number of Position(s) \_\_\_\_\_

Position Number(s) \_\_\_\_\_

Location \_\_\_\_\_

Address \_\_\_\_\_

City/State \_\_\_\_\_

Submitted by: \_\_\_\_\_

Place of Employment: \_\_\_\_\_

Date: \_\_\_\_\_

It is our understanding this is a new position and that no current employee will be affected by this change and that standard hiring practices to fill a Contract Appointment will be followed.

☐

Approved

☐

Not Approved

\_\_\_\_\_  
Executive Director or Designee Signature

\_\_\_\_\_  
Date

**Note:** Attach job description and any other supporting documentation.

Send completed form to: STATE UNIVERSITIES CIVIL SERVICE SYSTEM  
1717 Philo Road, Suite 24  
Urbana, IL 61802-6099

Section 4 – Other Employment Transactions

*(Reference 80 Ill. Adm. Code §250.110(b))*

**4.6 LEAVE OF ABSENCE**

- a. Authorized Leave of Absence Without Pay – An Authorized Leave of Absence Without Pay (i.e., for personal convenience) is the only leave which is granted at the discretion of the employer. It is recommended that such leave be granted with right to return to a position in the class.
  1. Issue Leave of Absence form by transmitting one copy to the employee ~~and notify the University System Office.~~ See Example 4.6a.
  2. Enter appropriate information in employment records.
  3. Upon return from leave, issue a new notice of employment to the employee ~~and notify the University System Office.~~ Indicate on the notice "Return from Leave of Absence".
  4. If an employee resigns while on leave, indicate on resignation that employee did not return from leave and also the effective date of resignation. ~~Notify the University System Office.~~
  5. A leave is granted upon the condition that the employee shall return to duty at its expiration. Failure to return on that date is cause for discharge.
  6. Seniority concerning rights while on Leave – See Section 6.2, Service and Seniority Accrual of the Employment and Separation Procedures Manual.
- b. Disability Leave – If an employee exhausts the sick leave benefits, granted by the employer, and continues to be disabled, issue Leave of Absence form by transmitting one copy to the employee ~~and notify the University System Office.~~ See Example 4.6a.
  1. Enter appropriate information in employment records.
  2. Upon return from leave, issue a new notice of employment to the employee ~~and notify the University System Office.~~ Indicate on the notice "Return from Disability Leave".
  3. If an employee resigns while on leave, indicate on resignation that employee did not return from leave and also the effective date of resignation. ~~Notify the University System Office.~~



Section 4 – Other Employment Transactions

*(Reference 80 Ill. Adm. Code §250.110(b))*

4. A leave is granted upon the condition that the employee shall return to duty at its expiration. Failure to return on that date is cause for discharge.
  5. Seniority concerning rights while on Leave – See Section 6.2, Service and Seniority Accrual of the Employment and Separation Procedures Manual.
- c. Military Service Leave
1. Issue Leave of Absence form by transmitting one copy to the employee ~~and notify the University System Office~~. See Example 4.6a.
  2. Enter appropriate information in employment records.
  3. Upon return from leave, issue a new notice of employment to the employee ~~and notify the University System Office~~. Indicate on the notice "Return from Military Leave".
  4. If an employee resigns while on leave, indicate on resignation that employee did not return from leave and also the effective date of resignation. ~~Notify the University System Office~~.
  5. A leave is granted upon the condition that the employee shall return to duty at its expiration. Failure to return on that date is cause for discharge.
  6. Seniority concerning rights while on Leave – See Section 6.2, Service and Seniority Accrual of the Employment and Separation Procedures Manual.
- d. Probationary Period Leave – Leave of Absence from a class shall be granted for the duration of the probationary period when an employee's position is reallocated or reclassified or when the employee accepts a new position. If the employee does not pass the new probationary period, he/she shall have the right to return to a position in the former class.
1. It is not necessary to complete Leave of Absence forms.
  2. A leave is granted upon the condition that the employee shall return to duty at its expiration should the employee fail to pass the new probationary period. Failure to return on that date is cause for discharge.
  3. Seniority concerning rights while on Leave – See Section 6.2, Service and Seniority Accrual of the Employment and Separation Procedures Manual.

Section 4 – Other Employment Transactions

*(Reference 80 Ill. Adm. Code §250.110(b))*

- e. Disciplinary Suspension Leave – An employee shall be granted a leave when placed on a Disciplinary Suspension or on a Suspension Pending Discharge. This protects the employee's retirement and insurance interests. ~~*It is not necessary to notify the University System Office on leaves granted for Disciplinary Suspension.*~~

Section 4 – Other Employment Transactions

*(Reference 80 Ill. Adm. Code §250.110(f) and 250.110(g))*

4.9 **DEMOTION**

When an employee is demoted, the ~~e~~Employer files a Notice of Demotion ~~form~~ with the Merit Board (~~University System office~~) and serves a copy of the notice to the employee. See ~~Example From 4.9a~~. The ~~e~~Employer also must issue a new Notice of Appointment (as used by the ~~e~~Employer). A demotion is subject to the same ~~r~~Rules and proceedings as a Discharge. See Section 5 ~~of the Employment and Separation Procedures Manual and/or section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). Documentation of all activities regarding this personnel action shall be kept at the place of employment.~~—~~Separation Procedures.~~

~~The Notice of Demotion shall designate the position and classification to which the employee is being demoted and factually state the causes justifying demotion. The effective date of the demotion shall be the date of service of the Notice of Demotion to the employee. The Notice of Demotion must be served either personally to the employee or sent by certified mail or overnight delivery. Verification as to the kind of serve shall be included on the Notice of Demotion in the "Proof of Service on Employee section of the form.~~

~~If the employee is demoted to a new classification outside of his/her current promotional line, the employee shall be required to pass the Civil Service examination for that classification and serve the required probationary period.~~

~~Any personnel ~~Such~~ actions that qualifies as a demotion shall not be considered a demotion when initiated or willingly accepted by the employee. The employee shall be required to pass the Civil Service examination for the new class. Documentation shall be kept at the place of employment.~~

~~The Notice of Demotion—~~

~~a. — shall designate the position and class to which the employee is being demoted and factually state the causes justifying demotion. The effective date of the demotion shall be the date of service of the Notice of Demotion to the employee. And~~

~~b. — must be served either personally to the employee or sent by certified mail. A statement as to the kind of service shall be included on the Notice of Demotion.~~

~~If the demotion is to a position in a class in which the employee has not previously been employed or is not currently on the register for, the employee must take and pass the Civil Service examination and serve the required probationary period.~~



## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

1717 Philo Road, suite 24  
Urbana, Illinois 61802-6099



**Please mark appropriate Box**

- ☐ COPY 1 – Merit Board (University System Office)  
☐ COPY 2 – Employee  
☐ COPY 3 – Employer  
☐ COPY 4 – Employer Legal Counsel

## NOTICE OF DEMOTION

### Employee Information

TO: \_\_\_\_\_

Name \_\_\_\_\_ Home/Cell Phone Number \_\_\_\_\_

Address – Street and Number \_\_\_\_\_ Home e-mail address (if known) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Please be informed that you are hereby being demoted from the following position:**

Civil Service Classification and Number \_\_\_\_\_

Place of Employment \_\_\_\_\_

Department/College \_\_\_\_\_

**You will subsequently be placed into the following position:**

Civil Service Classification and Number \_\_\_\_\_

Place of Employment \_\_\_\_\_

Department/College \_\_\_\_\_

**The undersigned Employer hereby sets forth the reasons and causes for demotion below.**

- 1.
- 2.
- 3.
- 4.
- 5.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Employer

By: \_\_\_\_\_ Title \_\_\_\_\_  
DER's Signature

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**Notice to Employee** – The effective date of demotion shall be the date of personal service of the Notice of Demotion upon the employee as indicated below, or the postmark date if notified by certified mail or overnight delivery. Your rights relating to an opportunity to be heard in your own defense are determined by Section 360 of the State Universities Civil Service Act (110 ILCS 70/360) and section 250.110(g) of the Illinois Administrative Code (Code) (80 Ill. Adm. Code §250.110(g)). See attached section 250.110(g) of the Code. *If you desire to present a defense or otherwise contest your demotion, you are required to submit a written request to the Secretary for the Merit Board within 15 calendar days from the date that you are personally served as indicated below, or within 15 calendar days from the date of the postmark if you have been notified by certified mail or overnight delivery. Please submit your intent to contest your demotion to the following address: State Universities Civil Service System Office, 1717 Philo Road, Suite 24, Urbana, Illinois 61802-6099. For further assistance or information, you may also contact the State Universities Civil Service System at 217/278-3150.*

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### PROOF OF SERVICE ON EMPLOYEE

The undersigned hereby certifies that at \_\_\_\_\_ 'clock \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the employee named in this **NOTICE OF DEMOTION** was served by

[ ] personal service by \_\_\_\_\_.

[ ] certified mail by depositing the same in the United States mail at \_\_\_\_\_, Illinois or by overnight delivery that requires signature upon receipt in an envelope with postage fully prepaid and addressed to said employee as stated in said **NOTICE OF DEMOTION**, which is hereby certified to be the last known address of said employee.

\_\_\_\_\_  
Name (typed or printed), Title

\_\_\_\_\_  
Signature

## **Section 36o of the State Universities Civil Service Act (110 ILCS 70/36o)**

Demotion, removal, and discharge.] After the completion of his or her probationary period, no employee shall be demoted, removed or discharged except for just cause, upon written charges, and after an opportunity to be heard in his or her own defense if he or she makes a written request for a hearing to the Merit Board within 15 days after the serving of the written charges upon him or her. Upon the filing of such a request for a hearing, the Merit Board shall grant such hearing to be held within 45 days from the date of the service of the demotion, removal or discharge notice by a hearing board or hearing officer appointed by the Merit Board. The members of the hearing board or the hearing officer shall be selected from among the members of a panel established by the Merit Board after consultation with the Advisory Committee provided in Section 36c. The hearing board or hearing officer shall make and render findings of fact on the charges and transmit to the Merit Board a transcript of the evidence along with the hearing board's or hearing officer's findings of fact. The findings of the hearing board or hearing officer when approved by the Merit Board shall be certified to the employer. If cause for demotion, removal or discharge is found, the employee shall be immediately separated from the service. If cause is not found, the employee shall forthwith be reassigned to perform the duties of a position in his or her classification without loss of compensation. In the course of the hearing, the Director of the Merit Board shall have power to administer oaths and to secure by subpoena the attendance and testimony of witnesses and the production of books and papers relevant to the inquiry.

The provision of the Administrative Review Law and all amendments and modification thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Merit Board hereby created. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

## **Section 250.110(g) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(g))**

### **g) Demotion**

- 1) Any of the actions described in this subsection (g)(1) is considered to be a demotion when that action has been initiated by the employer. A demotion may occur when a status employee:
  - A) is subject to a reduction in salary in his/her current position, or in a position of the same class to which he/she has been reassigned, except when the reduction in pay results from an overall reduction in pay to persons employed in the same class and/or when the Merit Board, on the basis of supporting evidence, determines that the pay potential should be lowered for a class;
  - B) is subject to a reduction in percentage of time worked;
  - C) is appointed to a position in a lower class in a promotional line;
  - D) is appointed to a position in a class outside a promotional line with a lower pay potential;
  - E) is given a nonstatus appointment.
- 2) None of the actions described in subsection (g)(1) are considered to be a demotion when the action has been initiated, or willingly accepted, by the employee.

- A) Evidence of initiation by, or willing acceptance by, an employee shall be: a statement signed by the employee (to be filed by the employer with the notice of employment) indicating that the new appointment is at his/her request and/or is acceptable to him/her, or the employee applied for, and took, the Civil Service examination, upon the results of which the new appointment is based, after the date of certification to his/her most recent position.
  - B) Without the evidence indicated in subsection (g)(2)(A), the action will be considered to have been initiated by the employer and, therefore, will be considered to be a demotion.
- 3) Any classification plan changes authorized and implemented by the University System and/or the Merit Board that may result in a lower pay potential will not be considered a demotion.
- 4) An employer may effectuate a demotion by filing a Notice of Demotion with the Merit Board and serving a copy of the Notice of Demotion on the employee by certified mail, by overnight delivery that requires signature upon receipt, or by personally serving the employee. The Notice of Demotion shall designate the position and class to which the employee has been demoted and shall factually state the causes justifying demotion. The effective date of the demotion shall be the date of service of the Notice of Demotion upon the employee. A demotion shall be subject to the same hearing and review procedures as are provided an employee in the case of a discharge. (See subsection (f).) During any hearing and review proceedings, the employee shall be paid the approved rate for the class of the position to which he/she has been demoted, as set forth in the Notice of Demotion.
- 5) A status employee who is demoted to a position in a class in which he/she has never been employed on a status appointment may qualify for the position to which he/she is demoted, if his/her name is not already on an eligible register for that class, by taking the examination given to all other applicants for this class as promptly as possible following demotion to the class. The employee must pass the examination as a condition to retaining his/her appointment.



Section 5 – Separation Procedures

*(Reference 80 Ill. Adm. Code §250.110(f)(2)(D))*

**S.3 SUSPENSION PENDING DISCHARGE**

If the employer determines that the continued employment of an employee pending discharge action, in the opinion of the employer, the employee's presence on the job constitutes a substantial risk of injury to life or damage to property, or might cause a disruptive effect on the employer's operations, the employer may suspend *(without pay)* the employee, pending final formal discharge action, by issuing a Suspension Notice Pending Discharge. The method of service on such an employee shall be as provided for as in the formal Written Charges for Discharge form. When issuing the Written Charges for Discharge form, four copies need to be produced and distributed as follows:

- copy 1 – Merit Board (University System office);
- copy 2 – Employee;
- copy 3 – Employer; and
- copy 4 – Legal Counsel.

See FormExample 5.3a, Suspension Notice Pending Discharge and FormExample 5.3b, Written Charges for Discharge.

The Suspension Notice Pending Discharge may be served concurrently with the Written Charges for Discharge or at a later date as provided by the Act and Code.

An employee placed on suspension pending discharge shall be formally placed on a leave of absence in accordance with section 250.110(b)(2) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(b)(2)).

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM



## SUSPENSION NOTICE PENDING DISCHARGE

TO: \_\_\_\_\_  
 Employee's Name \_\_\_\_\_  
 \_\_\_\_\_  
 Employee's address -- Street and Number \_\_\_\_\_  
 \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 \_\_\_\_\_  
 Employee's Home/Cell Phone Number \_\_\_\_\_  
 \_\_\_\_\_  
 Employee's home email address (if known) \_\_\_\_\_

TO: State Universities Civil Service system  
 1717 Philo Road, Suite 24  
 Urbana, IL 61802  
 Phone: 217/278-3159  
 Fax: 217/278-3159  
 Website: [www.sucss.illinois.gov](http://www.sucss.illinois.gov)

Class: \_\_\_\_\_ CS Position Number \_\_\_\_\_

Place of Employment: \_\_\_\_\_

You are hereby notified that you are suspended without pay, pending discharge, effective \_\_\_\_\_, 20\_\_\_\_\_,  
 from your position as indicated above. The reason for your suspension pending discharge is for the causes set forth in the attached  
**WRITTEN CHARGES FOR DISCHARGE**, dated \_\_\_\_\_, 20\_\_\_\_\_, which are by this reference  
 incorporated herein and made a part hereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**Employer**

By: \_\_\_\_\_ Title \_\_\_\_\_  
 \_\_\_\_\_  
**DER's Signature**

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**PROOF OF SERVICE ON EMPLOYEE**

The undersigned hereby certifies that at \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_,  
 20\_\_\_\_\_, the employee named in this **SUSPENSION NOTICE PENDING DISCHARGE** was served by

☐ personal service by \_\_\_\_\_  
 \_\_\_\_\_  
 Name, Title

☐ certified mail by depositing the same in the United States mail at \_\_\_\_\_, Illinois or by overnight  
 delivery that requires signature upon receipt in an envelope with postage fully prepaid and addressed to said employee as  
 stated in said **SUSPENSION NOTICE PENDING DISCHARGE**, which is hereby certified to be the last known address of said  
 employee.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 Name (typed or printed), Title

\_\_\_\_\_  
 Signature

**STATE UNIVERSITIES CIVIL SERVICE SYSTEM**

1717 Phila Road, suite 24  
 Urbana, Illinois 61802-6099

***Please mark appropriate Box***

- ☐ COPY 1 – Merit Board (*University System Office*)  
☐ COPY 2 – Employee  
☐ COPY 3 – Employer  
☐ COPY 4 – Employer Legal Counsel

## WRITTEN CHARGES FOR DISCHARGE

### Employee Information

TO: \_\_\_\_\_  
 Name \_\_\_\_\_ Home/Cell Phone Number \_\_\_\_\_  
 \_\_\_\_\_  
 Address – Street and Number \_\_\_\_\_ Home e-mail address (*if known*) \_\_\_\_\_  
 \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Civil Service Class: \_\_\_\_\_ CS Position Number \_\_\_\_\_

Place of Employment: \_\_\_\_\_

The undersigned employer hereby makes specific and factual Written Charges for Discharge against the above named employee in separately numbered charges; include the dates, names of persons, places, and facts necessary to properly allege cause for discharge as follows: (Please make reference to any additional sheets or attachments.) Please list charges numerical.

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
**Employer**

By: \_\_\_\_\_ Title \_\_\_\_\_

***DER's Signature***

NOTE: When printing form, please print on both sides

(over)

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**NOTICE TO EMPLOYEE:** The effective date of discharge and your rights relating to an opportunity to be heard in your own defense are determined by the Section 360 of the State Universities Civil Service Act (110 ILCS 70/360) and section 250.110(f) of the Illinois Administrative Code (Code) (80 Ill. Adm. Code §250.110(f)). (See attached section 250.110(f) of the Code.) *If you desire to present a defense or otherwise contest your discharge, you are required to submit a written request to the Secretary for the Merit Board within 15 calendar days from the date that you are personally served, or within 15 calendar days from the date of the postmark if you have been notified by certified mail or by overnight delivery. Please submit your intent to contest your discharge to the following address: State Universities Civil Service System Office, 1717 Philo Road, Suite 24, Urbana, Illinois 61802-6099. For further assistance or information you may also contact the State Universities Civil Service System at 217/278-3150.*

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### PROOF OF SERVICE ON EMPLOYEE

The undersigned hereby certifies that at \_\_\_\_\_'clock \_\_\_\_\_M. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the employee named in this **WRITTEN CHARGES FOR DISCHARGE** was served by

☐ personal service by \_\_\_\_\_.

☐ certified mail by depositing the same in the United States mail at \_\_\_\_\_, Illinois or by overnight delivery that requires signature upon receipt in an envelope with postage fully prepaid and addressed to said employee as stated in said **WRITTEN CHARGES FOR DISCHARGE**, which is hereby certified to be the last known address of said employee.

\_\_\_\_\_  
*Name (typed or printed), Title*

\_\_\_\_\_  
*Signature*



## Section 360 of the State Universities Civil Service Act (110 ILCS 70/360)

Sec 360. Demotion, removal, and discharge. After the completion of his or her probationary period, no employee shall be demoted, removed or discharged except for just cause, upon written charges, and after an opportunity to be heard in his or her own defense if he or she makes a written request for a hearing to the Merit Board within 15 days after the serving of the written charges upon him or her. Upon the filing of such a request for a hearing, the Merit Board shall grant such hearing to be held within 45 days from the date of the service of the demotion, removal or discharge notice by a hearing board or hearing officer appointed by the Merit Board. The members of the hearing board or hearing officer shall be selected from among the members of a panel established by the Merit Board after consultation with the Advisory Committee provided in Section 36c. The hearing board or hearing officer shall make and render findings of fact on the charges and transmit to the Merit Board a transcript of the evidence along with the hearing board's or hearing officer's findings of fact. The findings of the hearing board or hearing officer when approved by the Merit Board shall be certified to the employer. If cause for demotion, removal or discharge is found, the employee shall be immediately separated from the service. If cause is not found, the employee shall forthwith be reassigned to perform the duties of a position in his or her classification without loss of compensation. In the course of the hearing, the Director of the Merit Board shall have power to administer oaths and to secure by subpoena the attendance and testimony of witnesses and the production of books and papers relevant to the inquiry.

The provision of the Administrative Review Law and all amendments and modification thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Merit Board hereby created. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

### State Universities Civil Service System rules, section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f))

#### f) Discharge Proceedings and Effective Date of Discharge

##### 1) Pre-discharge Proceedings

A) Prior to initiating any proceedings before the Merit Board for the discharge of an employee, the employer shall notify the employee in writing, served upon the employee in person if the employee is present on the job or, otherwise, by certified mail or by overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, of the employer's intention to initiate the proceedings. The notification shall advise the employee of the substance of the charges proposed to be filed in sufficient detail to inform the employee of the nature of the conduct on which the proposed charges are based. The notification shall also advise the employee that either or both of the following options are available to the employee:

- i) within 3 work days after service of the employer's notification, the employee may notify the employer of his/her decision to require the employer to hold a conference with the employee or his/her representative for the purposes of responding to the matters contained in the notification and of attempting to achieve a reconciliation or understanding; and
- ii) within 3 work days after service of notification, the employee may deliver to the employer a written response to the matters contained in the employer's notification; provided that, if the employee elects to require the conference identified in subsection (f)(1)(A)(i), at that conference the employee may request and receive an opportunity to respond further in writing within 3 work days after the conclusion of the conference.

##### B) Employer's Decision

i) Within 7 work days after compliance with the provisions of subsection (f)(1)(A), the employer shall either:

- notify the employee that no further action will be taken to initiate discharge proceedings with the Merit Board against the employee based solely on the matters contained in the employer's notification; or
- initiate proceedings before the Merit Board under this subsection (f) seeking discharge of the employee based solely on the matters contained in the employer's notification.

ii) The employer's election not to initiate discharge proceedings with the Merit Board shall not preclude the employer from imposing a suspension in accordance with subsection (e) or some lesser penalty.

C) An employee who has been served with an employer's notification as provided in subsection (f)(1)(A) may be placed on excused absence with pay during all or any part of the period covered by this subsection (f)(1) to provide the employer an opportunity to investigate serious charges.

2) Actual Discharge Proceedings

- A) Proceedings before the Merit Board seeking the discharge of an employee shall be initiated by the employer filing Written Charges for Discharge with the Merit Board setting forth the causes for discharge in sufficient detail to inform the employee of the nature of the conduct on which the charges are based. The Written Charges for Discharge shall be set forth in separately numbered charges. The Written Charges for Discharge shall contain the dates, names of persons, places, and facts necessary to properly allege cause for discharge. If a breach of duty, statute, or rule of the employer is alleged, the statute, law, or rule shall be cited in connection with the charge.
- B) The Written Charges for Discharge shall be accompanied with a certification by the employer that all procedures set forth in subsection (f)(1) have been followed and that there has been full compliance with any options elected by the employee. At the time the Written Charges for Discharge and the certification are filed with the Merit Board, the employer shall serve copies upon the employee in person if the employee is present on the job; otherwise, service shall be by certified mail or by overnight delivery that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file a proof of the service with the Merit Board.
- C) At any time prior to commencement of the hearing, the Executive Director may direct or authorize the Written Charges for Discharge to be amended to correct technical defects or to set forth additional facts or allegations related to the subject matter of the original charges. The amendments shall relate back to the original date of service of the Written Charges for Discharge. The employer shall serve copies of the Amended Written Charges for Discharge upon the employee in person if the employee is present on the job; otherwise, service shall be by certified mail or by overnight delivery that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file a proof of the service with the Merit Board.
- D) An employee who has been served with Written Charges for Discharge in accordance with subsections (f)(2)(A) and (B) may be suspended without pay by the employer during all or any part of the period that the discharge proceeding is pending, and until final disposition, if the employer is of the opinion that the employee's presence on the job might constitute a substantial risk of injury to life or property, or might cause a disruptive effect on employer's operations. Any suspension without pay shall become effective on the date the employer serves the Suspension Notice Pending Discharge upon the employee, which may be served with the Written Charges for Discharge or on any date thereafter. Service shall be upon the employee in person if the employee is present on the job; otherwise, service shall be by certified mail or by overnight delivery that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file with the Merit Board a copy of the Suspension Notice Pending Discharge and proof of service.

3) Hearing Request

- A) An employee who has been served with Written Charges for Discharge may request a hearing by filing a written request for hearing with the Secretary for the Merit Board within 15 calendar days after the date of personal delivery or mailing of the Written Charges for Discharge to the employee. The Secretary for the Merit Board shall immediately notify the employer of the filing of the written request by the employee. Thereafter, further proceedings shall be as provided in this subsection (f) and any discharge shall be effective on the date of the discharge order of the Merit Board, unless otherwise expressly stated in the order.
- B) If the employee does not file a written request for hearing with the Secretary for the Merit Board within 15 calendar days, the employee's discharge shall become effective at the end of the 15-day period without further action by the Merit Board. The Secretary for the Merit Board shall promptly notify the employer of the employee's failure to file a timely written request for hearing.

4) Hearing Proceedings

- A) Upon receipt of the employee's written request for hearing on the Written Charges for Discharge, the Merit Board shall promptly appoint a Hearing Board or Hearing Officer to hear the charges and the employee's response. All hearings relating to discharge proceedings shall be convened by and conducted under the control of the Executive Director or his/her authorized representative. The Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to commence the hearing within 10 calendar days after receipt of the employee's written request for hearing, but in no event shall the hearing commence later than 45 days after service of the Written Charges for Discharge, unless a continuance is granted pursuant to subsection (f)(19)(B). Dilatory tactics or actions will not be permitted and the Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to conduct the hearings in no more than three hearing days, unless justice, due process, and fundamental fairness require otherwise. All hearings shall be open to the public unless, upon motion of either party, the Hearing Board or Hearing Officer finds it necessary to close the hearing or parts of the hearing in instances where personal safety is of concern or when confidential testimony/exhibits are to be referenced or revealed. There shall be a presumption that hearings will be closed only

under extraordinary circumstances. A transcript of the hearing, including exhibits, shall be made and shall be filed with the Secretary for the Merit Board as soon as possible following conclusion of the hearings.

- B) Within 15 calendar days after receipt of the transcript from the Secretary for the Merit Board, the Hearing Board or Hearing Officer shall file its findings of fact and any other recommendations with the Secretary for the Merit Board, unless that time is extended by the Executive Director for good cause shown. For the purpose of this Section, good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions that prevent the members from meeting. If by that time the findings of fact have not been received by the Secretary for the Merit Board, the Executive Director will either appoint another approved Hearing Board or Hearing Officer that will then review the record and submit findings of fact within 10 calendar days after the appointment, or the Executive Director will give written notice to all Hearing Board members or the Hearing Officer and to all parties to the proceeding that he or she will, within 10 calendar days, discontinue the hearing and commence a new hearing and the present Hearing Board or Hearing Officer will be dismissed without pay. Within this 10-day period following the Executive Director's notice, the Hearing Board or Hearing Officer can appeal to the Executive Director by showing cause why time should be extended.
  - C) The Executive Director shall certify as the Hearing Record the Written Charges for Discharge, the Suspension Notice Pending Discharge, the employee's request for hearing, the transcript and exhibits, the Hearing Board's or Hearing Officer's findings of fact and other recommendations, and other documents that have been filed.
  - D) Upon certification by the Executive Director, the Secretary for the Merit Board shall, by certified mail or by overnight delivery that requires signature upon receipt, immediately forward a copy of the Hearing Record, along with notice that the Hearing Record has been certified, to all parties of record. Any objections to the form or contents of the Hearing Record, or briefs, abstracts, or excerpts from the Hearing Record, or arguments, motions, or recommendations, relating to the hearing proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the postmark of the certified mail notice or the mailing date of the overnight delivery that the Hearing Record has been certified, with proof of service on all parties. No answer or reply briefs and arguments in response to these filings will be permitted unless expressly authorized by the Executive Director or the Merit Board or its Chair.
  - E) A party requesting oral argument before the Merit Board in cases of discharge must file an appropriate motion with the Secretary for the Merit Board with notice to all parties within 14 calendar days after the date of the postmark of the certified mail notice or the mailing date of the overnight delivery of the certified hearing record, with proof of service on all parties. The motion must specifically state the issues and any relevant law that will be the subject of argument. The Merit Board will grant or deny the motion at the Merit Board meeting at which oral argument is requested. Oral argument in cases of discharge will generally not be allowed unless novel or precedent setting questions of law or policy are at issue.
- 5) Conduct of Hearing
- A) Pre-hearing Conference. In all hearings, it is recommended that the Hearing Board or Hearing Officer hold a pre-hearing conference immediately preceding the hearing on the day of the hearing. The Hearing Board or Hearing Officer will give the parties an opportunity to discuss issues and share information at the pre-hearing conference that will allow them to present their cases in a fair, efficient, and timely manner. Generally, the Hearing Board or Hearing Officer will conduct the pre-hearing conference for the purpose of achieving one or more of the following points, as determined by the Hearing Board or Hearing Officer on a case by case basis:
    - i) defining and simplification of the issues;
    - ii) negotiating admissions or stipulations of fact to avoid unnecessary proof;
    - iii) reviewing each party's witness and exhibit list;
    - iv) limiting redundant witness testimony or duplication of evidentiary material, if necessary;
    - v) determining the length of time each party will need to present its case;
    - vi) exchanging exhibits; and
    - vii) discussing any matter that may aid in the efficient and timely disposition of the case.
  - B) Following the Pre-hearing Conference. The Hearing Board or Hearing Officer shall enter into the record any action taken and any agreements made by the parties as to the matters considered. The length and scope of the pre-hearing conference is at the discretion of the Hearing Board or Hearing Officer, but should generally be concluded

within a one hour timeframe.

6) Order of Hearing

- A) The Executive Director, or authorized representative, shall open and convene the hearing.
- B) The Executive Director, or authorized representative, shall request all persons who have been asked to serve as witnesses, other than a party or employer representative, to be excluded from the hearing room while the hearing is in process, except during their own testimony and cross-examination. Except as he/she might intervene, or be requested to intervene, the Executive Director, or authorized representative, shall empower the Hearing Board or Hearing Officer to proceed with the hearing in such a manner as to provide the employer and the employee a full opportunity to present their positions to the Hearing Board or Hearing Officer.
- C) The parties may make a brief opening statement at the beginning of the hearing. The employer will proceed first, followed by the employee. Opening statements may be waived or may be reserved and presented at the commencement of the party's case-in-chief.
- D) The employer shall first present its case-in-chief, with an opportunity for the employee to cross-examine the employer's witnesses. The employee may be called as an adverse witness during the course of the hearing.
- E) The employee shall then present his/her case-in-chief, with an opportunity for the employer to cross-examine the employee's witnesses.
- F) Each party may call rebuttal witnesses if found to be necessary by the Hearing Board or Hearing Officer.
- G) At the conclusion of the hearing, each party may make an oral closing argument. The employer may be permitted a brief rebuttal at the end of the employee's closing argument.
- H) The hearing shall be closed when the employer and the employee have had a fair and reasonable opportunity to present their positions to the Hearing Board or Hearing Officer.
- I) In addition, each party may submit written arguments, summary statements, and/or briefs within 10 calendar days after conclusion of the hearing. A copy of the written closing arguments must be provided to all parties of record and filed with the Executive Director, with proof of service included. Only written materials submitted within the 10 calendar day timeframe will be forwarded with the transcript of evidence and considered by the Hearing Board or Hearing Officer, unless otherwise extended by the Executive Director.

7) Evidence and Motions

- A) As a general matter, the rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the investigation and conduct of serious matters of this nature. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
- B) All testimony shall be presented under oath or affirmation. Objections to testimony or evidentiary offers shall be noted in the record. Consistent with these requirements and in order to expedite the hearing, any part of the evidence may be received in written form, provided the interests of the parties are not jeopardized.
- C) The standard of proof applied by the Hearing Board or Hearing Officer when evaluating the charges will be the preponderance of the evidence.
- D) The Hearing Board or Hearing Officer may, on its own motion or upon motion of one of the parties, take notice of matters of which the circuit courts of the State of Illinois take judicial notice.
- E) The Hearing Board or Hearing Officer has the authority to rule on all motions that do not dispose of the proceedings. Examples of motions that can be ruled on by the Hearing Board or Hearing Officer are motions in limine or motions to suppress evidence. Motions directed at the Hearing Board or Hearing Officer shall be presented at the pre-hearing conference, if possible, and actions taken by the Hearing Board or Hearing Officer shall be entered into the record.
- F) Motions that dispose of the proceedings must be directed to the Merit Board. Examples of motions that are to be directed to the Merit Board are motions to dismiss, motions to decide a proceeding on the merits, or motions claiming lack of jurisdiction. Motions must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the postmark of the certified Hearing Record. Motions will be ruled on by the Merit Board at the Merit Board meeting in which the case is being considered. The filing of a motion of this nature shall not be allowed



to cause any delay in the proceedings.

- G) Performance records of the employee or past disciplinary records are admissible and relevant for the purpose of mitigation or aggravation, except if otherwise excluded by a local employer policy or collective bargaining agreement.
- 8) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing. It is the policy of the Merit Board to encourage stipulation of facts whenever practicable.
- 9) Evidence Depositions. Upon request to the Executive Director and upon good cause shown (which shall include, but is not restricted to, potential unavailability of a witness at the time the hearing is scheduled, scheduling or travel arrangement considerations, or agreement of the parties) any party may request a deposition of any witness to be taken for evidence in a hearing. If desired, subpoenas may be requested upon application to the Executive Director in a manner consistent with this Part. The deposition shall proceed in the manner provided by law for depositions in civil actions in the circuit courts of the State of Illinois.
- 10) Subpoenas. Requests for subpoenas shall be directed to the Executive Director at least five work days before the hearing, unless an exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:
  - A) The name and address of the witnesses sought;
  - B) Any specific documents the witnesses will be required to bring; and
  - C) A brief statement of the relevant facts or testimony that the witnesses will be providing.
- 11) Request for Documents. Prior to the hearing, each party shall serve upon the other party and file a copy with the Secretary for the Merit Board, to be submitted to the Hearing Board or Hearing Officer, the following information, to the extent available at that time:
  - A) A list of the names and addresses of the witnesses the party proposes to call; and
  - B) All documents the party proposes to offer in its case-in-chief.
- 12) Failure to Appear. Failure of a party to appear on the date set for hearing may result in findings of fact unfavorable to that party and may result in a loss of rights by default.
- 13) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest. Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.
- 14) Ex Parte Communications
  - A) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System Office, and the assigned Hearing Board or Hearing Officer shall not, after Notice of Convening of Hearing has been issued, communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.
  - B) Communications regarding procedure, including interpretation and application of Section 360 of the Act, subsection (f), and related procedures, are not considered ex parte communications.
- 15) Role and Responsibilities of the Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer shall be

responsible for the following activities:

- A) Conduct the pre-hearing conference;
  - B) Facilitate the timely completion of the hearing process, taking necessary steps to avoid delay;
  - C) Establish reasonable limits on the duration of witness testimony;
  - D) Limit repetitive or cumulative testimony;
  - E) Rule on motions, objections or evidentiary questions;
  - F) Hear evidence as presented at the hearing by the employer and the employee on behalf of their respective positions (the evidence may include matters in aggravation, mitigation and justification, which may pertain to the question of "just cause" for discharge);
  - G) Direct questions to witnesses at any time, but restrict questioning to the clarification of the testimony already presented;
  - H) Prepare a signed findings of fact within 15 calendar days after receipt of the transcript of the hearing proceedings to be transmitted to the Merit Board. The findings of fact shall set forth each of the written charges alleged in the Written Charges for Discharge, including an evaluation of the facts presented by the employer and employee with respect to each charge, and based on this evaluation, a determination as to whether the charges are sufficiently supported by the evidence presented. The findings of fact shall be based exclusively on the evidence and on matters officially noticed. The findings of fact presented by the Hearing Board or Hearing Officer are advisory only to the Merit Board. It is not the role of the Hearing Board or Hearing Officer to determine whether just cause for discharge exists. The determination of just cause is the sole province of the Merit Board; and
  - I) Enter any order that further carries out the purpose of this Section.
- 16) Final Decision of the Merit Board. In the course of reaching its decision, the Merit Board may request the Executive Director to make recommendations that he/she deems appropriate with respect to the discharge proceedings. Nothing in subsections (f)(16)(A) and (B) is intended to eliminate or limit the Merit Board's discretion to determine the appropriate disposition on a case-by-case basis. The Merit Board shall enter findings of fact and shall order the following decision and order or any other decision and order it deems appropriate:
- A) Discharge, if just cause is found to exist. No employee shall be discharged except for just cause. Just cause is defined as some substantial shortcoming that renders the employee's continuance in his/her position in some way detrimental to the discipline and efficiency of the service and that the law and sound public opinion recognize as good cause for the employee no longer holding the position; or
  - B) Reinstatement, if just cause for discharge is found not to exist. An employee shall be reinstated as follows:
    - i) Reinstatement with no loss of compensation when none of the significant charges are proven.
    - ii) Reinstatement with a 60-day suspension when the proven charges do not rise to the level of just cause for discharge, but some disciplinary action is justified based on the severity of the proven charges. If the Merit Board orders reinstatement with a 60-day suspension, any time served while on suspension pending discharge will be applied towards the fulfillment of the 60-day suspension.
- 17) Final Decision and Order of the Merit Board. The Secretary for the Merit Board shall immediately forward copies of all Merit Board orders to the employer and the employee by certified mail or by overnight delivery that requires signature upon receipt.
- 18) Administrative Review. All final decisions of the Merit Board shall be subject to appeal by the parties to the proceedings under the Administrative Review Law [735 ILCS 5/Art. III]. A complaint for administrative review must be filed and summons issued within 35 days after the date that a copy of the final Merit Board decision has been served upon the party affected. A final decision of the Merit Board shall be deemed served either when personally delivered or when deposited in the United States mail in a sealed envelope or package, with postage paid, addressed to the party affected by the decision at his/her last known residence or place of business.
- 19) Time Period Proceedings
- A) On the motion of either party with notice to the other party, or by independent action of the Chair of the Merit Board or the Executive Director communicated to both parties, any time period set forth in this subsection (f) may

be extended by the Chair of the Merit Board or by the Executive Director for good cause shown.

- B) No extension may be beyond a period established by statute, except for cases in which a written motion for continuance of a scheduled hearing is filed with the Secretary for the Merit Board at least 48 hours prior to the time scheduled for hearing, unless an exception is granted by the Executive Director. The moving party must set forth emergency grounds for a continuance, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God; the sudden illness or death of the movant, a member of his or her immediate family, or his/her legal counsel; or if the movant is able to demonstrate some other real and compelling need for additional time. If there is an arrest or criminal indictment of any employee that resulted from an employee's conduct in the course of employment duties, the Executive Director, at the request of the employee, may grant a continuance of hearing pending some resolution of the criminal charges. Requests for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance.
  - C) The time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall be deemed directory and not mandatory; and no failure to comply with any of the time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) of this Section and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall cause the Merit Board to lose jurisdiction of any matter.
  - D) If the last date for filing falls on a weekend or legal holiday, the last date for filing is the first business day following that weekend or legal holiday.
- 20) Reason for Discharge. Causes justifying discharge and any suspension during the discharge proceedings shall include, but are not limited to: all those listed as cause for suspension if they become recurring offenses; and, in addition, theft; drinking intoxicating liquors on institutional time or property; inability to perform satisfactorily assigned duties as a result of drinking alcoholic beverages; malicious damage to property, tools, or equipment; immoral or indecent conduct that violates common decency or morality; conviction of an offense involving moral turpitude; illegal or excessive use of drugs, narcotics, and/or intoxicants.
- 21) Hearing Expenses. All customary and reasonable court reporter and copying expenses incident to the preparation of the Hearing Record and providing copies to parties to the proceedings shall be paid by the employer. The Merit Board shall pay all expenses of the Hearing Board or Hearing Officer and any legal expenses incurred by a Hearing Board or Hearing Officer, to the extent that those expenses have been approved by the Merit Board or its Executive Director.

Section 5 – Separation Procedures

(Reference 80 Ill. Adm. Code §250.110(f))

5.4 INITIATION OF DISCHARGE ACTION

- a. The employer begins preparation for actual discharge proceedings against an employee by drafting written charges and preparing the Written Charges for Discharge form. (See Form 5.3b.) The charges shall be set forth in separately numbered items. The form shall contain the dates, names of persons, places, and acts necessary to properly allege cause for discharge. If a breach of duty, statute, or rule of the employer is alleged, the statute, law, or rule shall be cited on the form. The charges will specifically state the cause(s) justifying discharge. The employer is advised to have legal counsel prepare the statement of written charges. Once complete, the charges must be filed with the Merit Board, employee, employer and employer legal counsel. The written charges must be accompanied by either:
  - 1) a statement certifying that all procedures set forth in the section 250.110(f)(1) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) Act and Code have been followed and that there has been full compliance with any options elected thereunder by the employee; or
  - 2) a statement that the employee has not responded in any way to the employer's notification of intent to discharge.
- b. Once the form has been completed, The employer shall use the Written Charges for Discharge Form. See Form 5.3b. At at least four original sets of the form, along with the employer's certification, shall be prepared. The four sets are distributed as follows:
  - Copy 1 1) The first original form is served on the employee in one of two ways:
    - A. by **personal service** – indicate the exact hour and date of the service, and include the name of a witness to the service, if any, on the copy that is given to the employee. This information shall be posted to all other copies before they are distributed; or
    - B. by **certified mail or overnight delivery** – to the last known address of the employee. Indicate the date and the place from which the form was mailed. This information shall be posted to all original sets of the form before they are distributed. Please ensure that the date on the Written Charges for Discharge Form under the “Proof of Service on Employee” section is the same date as the date of mailing. In other words, the date on the USPS or other delivery system tracking form must be the same date as that on the discharge paperwork. Please note that simply sending discharge paperwork through campus mail is not the same as submitting it directly to the USPS or by an overnight delivery service.



Section 5 – Separation Procedures

*(Reference 80 Ill. Adm. Code §250.110(f))*

~~Copy 2 2) — The second original~~ is sent to the Secretary for the Merit Board, ~~along with the employer's certification or statement~~. When certified mail or overnight delivery is the employer's chosen form of service to the employee, as outlined in ~~(b)(1)(B)~~ above, the employer will also send to the Secretary for the Merit Board a copy of the certified mail tracking form or a copy of the overnight delivery slip, including the actual tracking number.

~~Copy 3 3) — Another original form~~ shall be retained by the employer.

~~Copy 4 4) — The final original form~~ shall be sent to the employer's legal counsel.

c. Date of Discharge Action

The effective date of the discharge shall be on the 15<sup>th</sup> calendar day following the personal service or certified mail/overnight delivery date on the Written Charges for Discharge ~~f~~Form, "Proof of Service on Employee" section, unless the employee makes a written request for a Hearing to the Merit Board within the 15 calendar day period.

If the employee requests a Hearing, and the Merit Board upholds the discharge, the effective date of discharge shall be the date of the Decision and Order by the Merit Board unless otherwise expressly stated in the final Decision and Order of the Merit Board.

d. Other Implications

During the 15-calendar day period following the date of service of Written Charges for Discharge, no action is taken by the employer or by the University System unless the employee:

- tenders a resignation, or
- makes or serves a written request to the Merit Board for a Hearing.

If an employee resigns after having been served with Written Charges for Discharge, the University System Office shall be notified immediately. A resignation must be accepted by the employer, which then causes all discharge proceedings to be terminated as of the date the resignation is submitted and accepted.

## Example 5.4a

**SCHEMATIC NARRATIVE OF DISCHARGE PROCEDURES**

1. Employer initiates preliminary proceedings to discharge (by request of Supervisor)  
↓
2. Employer notifies employee in writing of intent proposal to discharge with specific charges in sufficient detail to advise the employee of nature of conduct on which proposed charges are to be based. Employee may be placed on excused leave, with pay, if presence on the job might constitute a considerable risk of injury to life or property, or might cause a disruptive effect on operations.  
↓
3. (A) If requested by the employee, the employer shall convene a conference within 3 work days of service of the notice of intent proposal to discharge; (B) Or employee may respond in writing within 3 work days of service of notice of intent proposal to discharge; or (C) Both A and B.  
↓
4. Within 7 work days following compliance with A, B, or C, employer makes decision to rescind notice of intent proposal to discharge (with possible implementation of lesser disciplinary measures) or to proceed with discharge.  
↓
5. If employer decides to discharge, proceedings before the Merit Board are initiated by service of Written Charges for Discharge. I and, if employee's presence on the job might constitute substantial risk or injury to life or property, or might cause a disruptive effect on operations, a Suspension Notice Pending Discharge may be issued. Written Charges for Discharge are sent to the Merit Board and must be accompanied with a certification that all procedures set forth in section Civil Service Rule 250.110(f)(1) of the Illinois Administrative Code (80 Ill. Adm. Code  
↓
6. §250.110(f)(1)) have been followed and there has been full compliance with options elected by employee; or a statement that employee did not respond in any way to the notice of proposal to discharge.  
↓
6. After receipt of Written Charges for Discharge, the employee has a right to submit an appeal to the Merit Board. The employee must submit make a written request for a Hearing to the Secretary for the Merit Board (within 15 calendar days of personal service or mailing of the Written Charges for Discharge).  
↓
7. A Hearing is then scheduled within—in no case beyond 45 calendar days from the date of the proof on service on employee, — with a goal of a maximum of no more than 23 hearing days for completion.  
↓
8. A Transcript of the Hearing is filed with the Secretary for the Merit Board as soon as possible, and after duplication by the Employer, copies furnished to Hearing Officer. The employer is responsible for all costs associated with the Court Reporter.  
↓
9. A copy of the transcript ↓ The Hearing documents, along with transcript, along with the Exhibits and other hearing documents, are sent to Hearing Officer. "Findings of Fact" of Hearing Officer or Hearing Board are filed with Secretary for the Merit Board within 15 calendar days after receipt of official documents/transcript/exhibits/documents unless time is extended by Executive Director for good cause shown.  
↓
10. Hearing Record is then certified and sent to parties of record with an opportunity to respond within 14 calendar days of date of

## Example 5.4a

postmark of notice of certification. An appropriate motion for oral argument before the Merit Board must be filed with the Secretary of the Merit Board, with notice to all parties, within 14 calendar days of date of postmark of notice of certification.



11. During all previous steps an employee may resign at which time all proceedings are rescinded and records expunged.



12. Chair of the Merit Board and/or Executive Director have the authority to extend any time period, except for with the exception of the 15-day Statute period for requesting a Hearing or the 45-day Statutory period within which a Hearing must be commenced.



13. At the expiration of the 14-day period in step 10, Certified Hearing Record, as supplemented, is then forwarded to the members of the Merit Board for consideration at their next scheduled meeting.



14. Upon review of the total Record, the Merit Board orders Discharge, ~~or~~ Reinstatement of employee with no loss of compensation, or Reinstatement of employee with 60-day Suspension. The Merit Board has the authority to also issue any other order as deemed necessary.



Section 5 – Separation Procedures

*(Reference 80 Ill. Adm. Code §250.110(f))*

**5.5 DISCHARGE HEARING**

If an employee makes a written request for a Hearing to the Secretary of the Merit Board within the 15-day period, the University System Office shall notify the employer that a request for a Hearing has been made and the University System shall schedule a Hearing ~~to be conducted~~ within ~~the 45 calendar days day requirement, in accordance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) as outlined in the Code.~~

A neutral and unbiased Hearing Officer or Hearing Board will be selected from a panel approved by the Merit Board. The Hearing is convened by and conducted under the direct responsibility and control of the Executive Director, or the Executive Director's authorized representative.

The employer is requested to provide a room for the conduct of the Hearing, and an area where witnesses may wait. The employer engages the services of a court reporter and covers all expenses of the court reporter. The court reporter will ~~to~~ record the proceedings of the Hearing, and collect all exhibits entered as evidence.

**Discovery**

Prior to the hearing, each party must provide a list of proposed witnesses and any documentation to be offered in its case-in-chief. Each party must file a copy of this information with the Secretary for the Merit Board, and the opposing party, prior to the hearing (preferably at least three days prior to the hearing).

All University System employers and employees are subject to the Personnel Record Review Act, 820 ILCS 40. 820 ILCS 40/4 states, "Personnel record information which was not included in the personnel record but should have been as required by this Act shall not be used by an employer in a ... quasi-judicial proceeding. However, personnel record information which, in the opinion of the ... hearing officer in a quasi-judicial proceeding, was not intentionally excluded from the personnel record may be used by the employer in the proceeding if the employee agrees or has been given a reasonable time to review the information. Material which should have been included in the personnel record shall be used at the request of the employee."

**Transcript**

As stated above, the ~~The~~ employer pays all expenses incident to the preparation of the Transcript of Evidence. When the Transcript has been completed by the court reporter, the certified original and one electronic original, along with the original exhibits, are sent directly to the Secretary for the Merit Board.

The University System Office will forward the ~~The~~ Transcript ~~is then forwarded~~ to the Hearing Board or Hearing Officer, along with all exhibits, for the purpose of preparing the Findings of Fact.

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(Reference 80 Ill. Adm. Code §250.110(f))

The Hearing Board or Hearing Officer shall file the Findings of fact with the Secretary for the Merit Board within 15 calendar days after receipt. When the Findings of Fact have been received by the Secretary for the Merit Board, the Written Charges for Discharge, Suspension Notice Pending Discharge (if issued), employee's request for a Hearing, Transcript of Evidence, Exhibits, Findings of Fact, and other material will be certified by the Executive Director as the official Hearing Record.

The Secretary for the Merit Board forwards a copy of the Hearing Record, along with a notice that the Hearing Record has been certified, to all parties of record in the proceeding. This information shall be sent by certified mail or by overnight delivery that requires signature upon receipt. ~~to all parties of record in the proceeding (1) a notice that the Hearing Record has been certified and (2) a copy of the Findings of Fact that has been certified as part of the Hearing Record.~~ All objections to the form or content of the Hearing Record, briefs, abstracts, or excerpts from the Hearing Record, arguments, motions, or recommendations, relating to the proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence must be filed with the Secretary for the Merit Board within 14 calendar days from the date of the postmark of the certified mail notice or the mailing date of the overnight delivery that the Hearing Record has been certified, with proof of service thereon on all parties.

No answer or reply briefs and arguments will be permitted unless expressly authorized by the Merit Board or its Chair. Personal appearances before the Merit Board on any matter relating to a particular discharge proceeding will be granted only by express consent and prior Order of the Merit Board after due notice to all parties. Motions must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the postmark of the certified mail notice or the mailing date of the overnight delivery of the certified hearing record.

**Merit Board Decision**

The Merit Board, after reviewing the Hearing Record, shall enter and file its final Decision and Order in the matter, and the Secretary for the Merit Board shall transmit copies of the Decision and Order to the parties of record. Following are the typical decisions rendered by the Merit Board in these matters:

a. Discharge by the Merit Board

If the Merit Board orders that the employee shall be discharged from the service of his/her Employer, this fact and the effective date of the discharge shall be entered on the Civil Service employment records.

b. Reinstatement by the Merit Board

If the Merit Board orders that the employee shall be reinstated to employment in a position of the class, without loss of compensation, no entry relating to Written Charges for Discharge and Suspension Notice Pending Discharge (if issued) shall be made on the Civil Service

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employment records. The employer shall immediately take whatever steps are necessary to compensate the employee for time lost from work because of the Suspension Pending Discharge, as ordered by the Merit Board.

c. Reinstatement with 60-day Suspension by the Merit Board

If the Merit Board orders that the employee shall be reinstated to employment with a 60-day suspension in a position of the class, the employer shall immediately take whatever steps are necessary to compensate the employee for any time other than the 60-day suspension, as ordered by the Merit Board.

Please be reminded that the Merit Board has discretion to determine the appropriate disposition in these discharge cases on a case-by-case basis. Again, the Merit Board's decision is final. Once a final administrative decision has been rendered by the Merit Board in discharge cases, any appeal must be made through the courts within a designated timeframe, in accordance with the Administrative Review Law.



## Section 5 – Administering and Scoring Examinations

### 5.17 Disability Accommodations for Civil Service Pre-Employment Examinations

It is the responsibility of the potential employer to evaluate and determine the necessity to provide accommodations to applicants for any civil service pre-employment examination. As a rule, the procedures regarding reasonable accommodation in these situations are governed by the Americans with Disabilities Act (ADA), and corresponding employer policies and procedures established in this respect.

In the event that an applicant requests an accommodation for any pre-employment examination for any Civil Service Classification maintained by the University System Office, such request must be formally submitted to the potential employer at least three (3) business days prior to the date of the examination, as determined by the employer. Each institution governed by the Rules of the State Universities Civil Service System has separate policies and procedures to determine ADA accommodations at its location. As such, each institution shall apply those policies and procedures to validate and justify the necessity and capability to provide any accommodation requested for a Civil Service pre-employment examination at its location.

Upon reaching a determination that an accommodation request is justified and should be provided, the employer must submit a *Request for Testing Accommodation* form to the University System Office no less than three (3) business days prior to the scheduled examination date. See *Form 5.17a*. Upon approval, the University System Office will provide specific instructions on how to proceed with the approved accommodation. Please note that, through this approval process, the University System Office will not be reviewing specific information related to the verification of the applicant's disability and employer policies in this respect, but will merely review the accommodation request with respect to the technical delivery of the examination components.

# Request for Civil Service Pre-Employment Examination Accommodation

**INSTRUCTIONS TO EMPLOYER:** If an applicant has a disability that requires an accommodation in testing, this form must be completed by an appropriate professional (i.e., education professional, physician, vocational rehabilitation counselor, psychologist, or psychiatrist) designated by your university/agency to certify that the disabling condition requires testing accommodation(s). *Please submit request at least three (3) working days before exam date.*

*Please provide the following information (please print or type):*

Applicant's Name: \_\_\_\_\_

Employer Address/Exam Location: \_\_\_\_\_

Civil Service Examination/Classification: \_\_\_\_\_

Date of Examination: \_\_\_\_\_

**Certification:**

*I hereby certify on behalf of the employer that the applicant listed above has met the requirements of the ADA, and all associated policies and procedures of the employer, in order to verify and provide the accommodation requested above. Accordingly because of this applicant's disability, he/she should be accommodated by providing the following exam modifications (specify):*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Certifying Professional's Name (Print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

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**University System Approval:**

☐ Approved ☐ Not Approved

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Date

Send completed form to: **STATE UNIVERSITIES CIVIL SERVICE SYSTEM**  
1717 Philo Road, Suite 24  
Urbana, IL 61802-6099

*\*Upon approval, the University System Office will provide instructions on how to proceed with the specific testing accommodation.*